

RESOLUTION**A RESOLUTION TO APPROVE SPECIAL EXCEPTION #SE02-S-13 and #SE02-S-14
SEMPLE FAMILY LIMITED PARTNERSHIP, OWNER (PIN #6995-79-4111-000) AND
AML DEVELOPMENT CORPORATION, APPLICANT**

WHEREAS, AML Development Corporation, applicant, has filed an application for special exception approvals to establish a continuing care facility in the rural agricultural zoning district (Section 5-606) and for a private sewage treatment system (Section 5-2000); and

WHEREAS, the Planning Commission held a public hearing on this application on February 28, 2002, and has forwarded the application to the Board of Supervisors; and

WHEREAS, the Board of Supervisors has considered the written and orally presented information of the applicants and conducted a public hearing for this application on May 20, 2002; and

WHEREAS, the Board of Supervisors has determined that the applications are in substantial conformance with the Comprehensive Plan and the applicable provisions of the Zoning Ordinance; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 20th day of May 2002, That the applications of AML Development Corporation on parcel #6995-79-4111 be, and is hereby, approved, subject to the following conditions:

General Provisions

1. This special exception is granted only for the purpose(s), structure(s) and/or uses indicated on the special exception plat approved with the application, dated December 14, 2001, and revised April 9, 2002, as qualified by these development conditions, with the exception that accessory structures as otherwise permitted in the underlying zoning district shall be permitted in accordance with the provisions in Article 6 of the Zoning Ordinance.
2. This special exception is subject to the provisions of Article 12 of the Fauquier County Zoning Ordinance, Site Plans, as may be determined by the Fauquier County Department of Community Development.
3. The applicant shall file a site plan within one year of approval of this special exception approval. The site plan shall be in substantial conformance with the special exception plat dated December 14, 2001 and revised through April 9, 2002.
4. The special exception shall expire and be null and void unless a Certificate of Occupancy for the first occupied unit or building is issued within three (3) years of the date of approval for the special exception, or a Board of Supervisors extension is approved.
5. The use of the property shall be limited to the following housing components: one 40-bed assisted living facility structure, two 16-unit condominium structures, 50 individual cottage units and 30 duplex units.

6. Prior to the issuance of the first residential building permit, the applicant shall post a performance bond in the amount of \$850,000.00 to guarantee that construction of the assisted living facility will begin prior to the issuance of the 85th residential building permit. The Director of Community Development and the County Attorney shall agree to the terms and conditions of the bond. In the event of a default, the performance bond fund shall be used either for the construction of an on-site assisted living facility or for the medical care of persons who have purchased housing components within the continuing care community.
7. The applicant agrees that first priority for assisted living facility beds shall be for those persons who have purchased housing components within the continuing care community, based upon bed availability at that time at the current market rate.
8. The assisted living facility shall be licensed by the Virginia Department of Social Services and any other appropriate federal, state and/or local agency prior to the issuance of the Certificate of Occupancy for the facility.
9. The total area of the site developed for the continuing care facility shall be limited to 30± acres as generally depicted on the Special Exception Plat. Unless the Board of Supervisors approves an amendment to this special exception, the remaining parcel acreage (90 ± acres) shall be deed restricted from further development with limited exceptions through a recorded easement. Those exceptions are limited to the following uses:
 - a. Installation of utility poles, transformer, lines and facilities related to the transmission and distribution of electricity, telephone and cable;
 - b. Natural gas lines, reduction station equipment and facilities related to the distribution of natural gas;
 - c. Installation of well for potable use, septic tank, drainfield and required reserve, and effluent lines for the facility, facilities for the production and or distribution of potable water for domestic use, wastewater treatment plant and related systems as otherwise permitted;
 - d. Agricultural, forestry, wildlife habitat areas and observation points or open space uses.
 - e. Accessory structures as otherwise permitted in the underlying zoning district.
 - f. Gardens, walking trails and similar amenities as otherwise permitted and indicated on the special exception plat.
10. The referenced easement will include the conditions mentioned above, and shall be reviewed and approved by the County Attorney.
11. The applicant shall obtain and, as necessary, maintain all applicable federal, state and local permits. In addition, the Department of Community Development, on behalf of the Fauquier County Board of Supervisors, reserves the right to inspect the site at any reasonable time without prior notice to ensure that the operation of the Facility meets the conditions of this special exception.
12. The applicant agrees that the housing shall be age-restricted in nature, in accordance with the Fair Housing Amendments Act of 1988, as amended, so that at least one occupant of each unit is at least 55 years of age or older. In addition, the applicant agrees that no occupant of any unit shall be under the age of 19.

13. The applicant shall establish, as a method of guaranteeing continuing adequate maintenance for the facility, a base reserve of \$1,000 per unit sold. The funds shall be collected at closing for each unit and placed into an interest bearing account established solely for the purpose of facility maintenance. The County Attorney's office shall review and approve the documents establishing this fund prior to the first occupancy permit. A minimum of 50% of the funds shall be reserved and dedicated to the maintenance of the sewage treatment facility.
14. The special exception is granted for and runs with the land indicated in this application and is not transferable to other lands. Conditions of the permit shall be applicable to all successors and assigns of the applicant. In the event that the Applicant challenges any condition of this special exception, the Board of Supervisors evidences its intent that these conditions are not severable.
15. Prior to final site plan approval the applicant shall submit for review by the County Attorney's Office, draft covenants to be recorded and running with the lands and binding on all owners of condominiums and lands in perpetuity. Such covenants shall address at a minimum: insured conformance with age restrictions in compliance with federal laws, guarantee of continued performance and maintenance of the sewage treatment facility, private roadways, landscaping and grounds and buildings or structures.
16. The applicant shall convey to the Fauquier County Water and Sanitation Authority the well on the subject property and grant and necessary easements to allow the well to serve the New Baltimore Service District, in association with Comprehensive Plan Amendment CPA#02-S-04. An agreement with the WSA detailing this arrangement shall be established prior to the approval of the site plan.

Emergency Services

1. The applicant has agreed to and shall make a \$50,000 cash contribution to Fauquier County for the sole purpose of assisting in the purchase of a new ambulance for the New Baltimore Volunteer Fire and Rescue Company. Such contribution shall be made prior to the issuance of the first zoning permit for any residential unit or the assisted living facility.
2. In order to allow for 24-hour emergency service access, an employee shall either man the gatehouse 24 hours per day, or the applicant shall provide to the New Baltimore Fire and Rescue Squad a means of accessing the entrance gate.
3. The applicant agrees that individual residential sprinklers for fire protection shall serve all residential units.

Environmental Conditions:

1. Prior to site plan approval, the Applicant must provide the County with any official wetland determinations made by the U.S. Army Corps of Engineers and recommended actions that the Applicant needs to accomplish resulting from site construction. Prior to issuance of the Certificate of Occupancy for the Facility, the Applicant shall demonstrate to the Department of Community Development that all federal wetland requirements, if any, have been completed to the satisfaction of the U.S. Army Corps of Engineers.

2. Best Management Practices shall be incorporated into final stormwater management designs at the time of site plan submission.
3. The erosion and sediment plan designed at the time of site plan submission shall incorporate filtration practices due to the high mica content of many of the soils on site.
4. The applicant shall obtain a Federal Emergency Management Agency approved floodplain revision prior to approval of the site plan.

Landscape and Buffer Requirements:

1. A landscape/buffering plan shall be prepared and submitted with the site plan for the Facility, pursuant to Zoning Ordinance requirements for approval by the Department of Community Development. In the described plans, native species shall be the principal planting categories used for the benefit of existing and future wildlife populations. Species should include, but not be limited to, hollies, loblolly pine, red cedar, white pine, leyland cypress, willow oak, sycamore, locust, wax myrtle, highbush blueberry, downy serviceberry, redbud, and similar types. The planting plan will be submitted as part of the site plan and shall meet the landscape and buffering requirements contained in Section 7-600 of the Zoning Ordinance. The plan shall also include:

a. Perimeter Buffering.

- 1) The applicant shall identify tree stands, which are to be preserved and the method of protection and site management before and after construction. The details shall be included as part of site plan design and approval.
- 2) The applicant shall plant a forested buffer serving as a visual screen as indicated on the special exception plat and otherwise required by Zoning Ordinance provisions.

b. Maintenance.

- 1) **Dead and Dying Trees and Replacements.** The applicant shall replace any trees planted along the forested buffer pursuant to item 2.a. above that die within three (3) years of planting. If any trees shown on the approved site plan to be preserved or planted as part of the perimeter buffer become diseased or are dying, then the applicant may remove those trees. If the removed trees are part of the screening buffer as shown on the approved landscape/buffer plan, then the applicant shall replace with such number of trees as are necessary to satisfy the screening intent of the approved landscape/buffer plan. The replacement trees shall be planted as nearly as possible to the location of the removed trees. The replacement trees must be the equivalent to that shown on the approved plan.
- 2) **Protection.** The applicant shall be responsible for and employ reasonable efforts for the protection of the tops, trunks and roots of all existing trees, as well as other vegetation on the site. Protection devices shall be installed along the limits of clearing and grading, prior to any construction occurring on-site. Such protection shall be maintained until all work in the vicinity has been completed, and shall not be removed without the consent of the County Engineer.

Lighting Requirements:

1. The facility lighting shall comply with the performance standards contained in Section 9-900 and 9-1000 of the Fauquier County Zoning Ordinance. All outdoor light fixtures shall be fully shielded as identified in Section 9-1006 of the Zoning Ordinance, and a fully shielded fixture must be a full cutoff luminary with full cutoff optics.

Transportation Requirements:

1. The applicant shall dedicate right-of-way in the amount of 35 feet from the existing property line along the property's entire Route 29 frontage, with an additional 50-foot reservation for a possible future service road. The applicant shall also dedicate 25 feet of right of way along the Route 673 frontage of the property.
2. The applicant shall design and construct all frontage improvements to serve the site as indicated on the special exception plat and determined by the Virginia Department of Transportation at the time of site plan review.
3. The applicant shall contribute \$40,000 presented to the County and placed in a Transportation Escrow Account for the signalization of the intersection of the project entrance/Baldwin Street and Route 29. Such payment shall be made prior to the issuance of the first occupancy permit for any residential unit or the assisted living facility. Upon request from VDOT, the County shall deliver the escrowed fund to the Virginia Department of Transportation (VDOT).
4. Adequate traffic controls, as determined by VDOT, shall be established for all construction traffic and also for activities within the public right of way.
5. No open cutting or trenching of Route 29 shall be permitted in association with utility crossings.
6. No valves or "blow-offs" or fire hydrants shall be permitted in the public right-of-way.
7. The unpaved emergency access road depicted on the special exception plat shall be a minimum width of 15 feet, designed and constructed so as to handle emergency vehicles in both wet and dry conditions.

Private Sewage Treatment System:

Prior to site plan approval for the continuing care facility, the applicant shall:

1. File an application with the Health Department for the proposed private sewage system.
2. Conduct a preliminary meeting with the Health Department to determine basic design parameters such as flows.
3. Submit a soils evaluation proposal to the Health Department and the County Soil Scientist. As part of this evaluation, the applicant shall conduct a saturated hydraulic conductivity test (K-sat) to determine a permeability rate that will be used as part of the design criteria.
4. A site visit shall be held with representatives from the Health Department and the County Soil Scientist to determine suitable areas.
5. Submit a design to dispose of sewage effluent and calculate nitrate loading, ponding and disposal means in accordance with state and local health codes.

6. Complete any design revisions deemed necessary by the Health Department's engineer and submit the revised package to the local Health Department for the issuance of a permit.

In addition, the following general provisions shall also apply:

7. A Class III wastewater operator licensed by the Commonwealth of Virginia shall operate the private sewage treatment facility. Written documentation shall be provided to the Building Official in the form of an operator agreement prior to the issuance of the first occupancy permit for the facility.
8. The applicant shall provide an annual certification statement to the Zoning Administrator indicating that a Class III operator is under contract for the sewage treatment facility.
9. Either the applicant or the licensed operator shall ensure that 24-hour a day monitoring and notification systems and procedures are in place for the sewage treatment operations. The applicant shall be responsible for notifying the County and all adjacent property owners of any system malfunctions within 24 hours of the occurrence of the malfunction.
10. Monitoring reports of the sewage treatment system shall be submitted to the Health Department as required on a routine basis, with accumulated results submitted to the Zoning Administrator on an annual basis.
11. Before the issuance of the first occupancy permit, the applicant shall provide written evidence to the Building Official that the applicant has arranged for the appropriate disposal of biosolids produced on site.
12. Prior to the issuance of the first building permit the applicant shall convey, or contract to convey, the public water system including but not limited to wells, waterlines and other system requirements, to the Fauquier County Water and Sanitation Authority.
13. All commercial components shall be located only within the assisted living and recreation building components of the assisted living community. All commercial components shall be accessory to, and normally found in, assisted living uses. Commercial components shall be designed and constructed primarily for use by the residents of the assisted living community.